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SUBJECT: TURKISH PARLIAMENT PASSES FOUNDATIONS LAW

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[1](#)B. 07 ISTANBUL 0083  
[1](#)C. 06 ANKARA 6593

Classified By: Political Counselor Janice G. Weiner, reasons 1.4 (b),(d)  
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[1](#)1. (U) This is a joint Embassy Ankara - Consulate General  
Istanbul cable.

[1](#)2. (C) Summary and comment: Turkey's parliament passed the  
long-delayed Foundations Law to expand non-Muslim religious  
property rights February 20, despite vocal condemnation from  
opposition parties and subdued criticism from minority  
communities. PM Erdogan bumped the measure to the top of  
parliament's agenda last week, after strong criticism from  
the international community that AKP was neglecting  
long-promised EU-related reforms due to the headscarf ban  
debate. Erdogan's quick movement showed he alone controls  
the agenda, and quashed rumors that AKP would deep-freeze the  
Foundations Law in exchange for far-right Nationalist Action  
Party (MHP) support on lifting the headscarf ban. The law,  
vetoed twice by former President Sezer, is seen by many as a  
flawed but positive step in the right direction. President  
Gul, who supported previous versions of the measure as FM, is  
expected to sign it into law. Endsummary and comment.

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Parliament Passes Foundations Law  
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[1](#)3. (SBU) After a one-month delay caused by the contentious  
debate over lifting Turkey's headscarf ban at universities,  
Parliament passed the Foundations law February 20 with a  
clear majority of 242 votes. The bill had lingered for  
months in parliament's Justice Committee, and then was bumped  
from parliament's agenda by Nationalist Action Party's (MHP)  
unexpected January proposal to help AKP lift the headscarf  
ban. The unlikely AKP-MHP alliance led many to suspect the  
two parties struck a deal: MHP support on lifting the  
headscarf ban in return for AKP shelving or gutting the  
Foundations Law. The PM responded by propelling re-passage  
of the law, twice vetoed by former President Sezer, to the  
top of parliament's agenda last week. Opposition Republican  
People's Party (CHP) and MHP leaders strongly opposed the  
measure, publicly branding AKP deputies "traitors" for moving  
the bill forward.

[1](#)4. (SBU) Justice Committee Chairman Ahmet Iyimaya told us the  
new law embraces Turkey's rich cultural heritage by

substantially expanding minority rights. The law makes it easier to establish and manage new foundations, and eases the procedure for recovering confiscated properties. Iyimaya said the new law strengthens and codifies a patchwork of prior laws frequently misapplied by the judiciary. Two "technical" changes to the version former President Sezer vetoed were added: one allowing foundations to establish companies that can raise funds but requiring those funds be used to further the particular foundation's purpose, and a second that reiterates the existing prohibition against foreign foundations purchasing property in Turkey. Iyimaya denied any horse-trading, and maintained these changes were needed to align the law with other Turkish laws. "With this law, we resolved a crisis created by political interpretations by the judiciary," he said, calling it a brave and important step.

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Opposition to the Law  
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15. (SBU) Opposition to the law is divided into two camps: those who believe it goes too far in expanding minority rights and those who believe it doesn't go far enough. In the first camp, CHP Vice Chair Onur Oymen claimed in a February 19 television debate the law violates Article 45 of the 1923 Lausanne Treaty, which he argued applies the principle of reciprocity to non-Muslim minorities in Turkey and Muslim minorities in Greece. He maintained the current draft violates reciprocity by granting rights to minority foundations in Turkey that the Greek government does not extend to its Turkish minority. Deputy Prime Minister (responsible for Foundations) Hayati Yazici, on the same program, responded the Lausanne Treaty makes no reference to

ANKARA 00000326 002 OF 002

reciprocity, adding Article 45 was intended to promote "parallel obligations." Iyimaya dismissed the opposition's reciprocity argument as political blustering to draw focus away from the text of the law and the Lausanne Treaty. The new law applies the reciprocity principles only to foundations established by foreigners in Turkey, he said.

16. (SBU) Though contacts from the three traditional minority communities have told us they favor the law despite its shortcomings, Turkey's minority religious communities officially opposed passage, pointing to five substantial shortcomings:

--It fails to reverse allegedly arbitrary State decisions to confiscate foundations' properties obtained after 1936 (ref B) -- the bulk of properties seized by the State;

--It fails to address the issue of expropriated properties sold to third parties;

--It does not allow communities to recover foundations over which the government took control when there were no descendants of the original founders or trustees (so-called "mazbut" or "fused" foundations);

--Despite DPM Yazici and Iyimaya's interpretations, it makes implementation conditional on Greece taking reciprocal steps; and

--It prohibits foundations from participating in activities abroad.

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EU Welcomes Passage as Positive Step  
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17. (SBU) European Commission political officer Sema Kilicer told us the EC welcomed the new law. Though flawed, passage sends an important message that the GOT remains dedicated to harmonizing its laws to meet EU standards. The European Commission is preparing an analysis of the law's benefits and shortcomings, and plans to urge the GOT to address those

deficiencies in future legislation.

¶8. (SBU) Iyimaya acknowledged the law is imperfect, and did not rule out the possibility AKP would pursue future legislation to resolve the outstanding issues, such as properties sold to third parties and the "mazbut" system. The intense social and political resistance to the measure prevented parliament from addressing all the problems, he said, adding, "The Foundations Law may have come too late but it is not too little." In the near-term, Iyimaya expects some of these deficiencies to be resolved through cases filed in the European Court of Human Rights.

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More Changes on the Horizon  
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¶9. (SBU) Shortly after the law passed, AKP MPs Sadullah Ergin, Salih Kapusuz, and Vahit Erdem told us a series of reforms would follow, namely amendment of Article 301 and reform of the Social Security Law. Ergin, an AKP whip, helps control the parliamentary agenda and his information on future items has proved accurate in the past. Passage of the headscarf amendments appears to have freed parliament to proceed on these longstanding issues. Iyimaya predicted Article 301 would come on the agenda in 10-15 days. If the PM is behind it, it may happen this time.

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